

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ORIGINAL

Leroy Riley

Plaintiff

**RECEIVED**

COMPLANT

JUN - 3 2005

-against-

CLERK U.S. DISTRICT COURT  
WEST. DIST. OF PENNSYLVANIA

JURY TRIAL DEMANDED

Charles M. Simpson, Kerri Cross,  
David MC Coy, Charles M. Shane,  
sued in there individual and  
official capacities, Mr Gaston,  
sued in his individual capacities.

CA05-172E

Defendants.

**RECEIVED**

JUN -3 2005

CLERK U.S. DISTRICT COURT  
WEST. DIST. OF PENNSYLVANIA

PRELIMINARY STATEMENTS:

This is a civil rights action filed by Leroy Riley a state prisoner for damages and injunctive relief under 42 U.S.C. § 1983 in confinement in segregation in violation of due process of the Fourteenth Amendment of the United States Constitution,

JURISDICTION:

The Court has jurisdiction over the plaintiff claims of violation of the federal constitutional rights under 42 U.S.C. § 1331 (a) and 1343.

A) PRELIMINARY INFORMATION.

1. Where are you confined? SCI Pittsburgh
2. What sentence are you serving? 6 to 15 years.
3. What court impose the sentence? Montgomery County Court.

B) PREVIOUS LAWSUITS.

4. Have you begun other law suits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment? \_\_\_\_\_
5. Is there a grievance procedure in this institution? Yes
6. What steps did you take? \_\_\_\_\_
7. What was the results? \_\_\_\_\_

C) PARTIES.

8. Plaintiff Leroy Rileys, incarcerated at the SCI Pittsburgh, where the events describe took place.
9. Defendant David Mc Coy acting DATSS, he is one of three appeal board member at Pittsburgh, he is responsible for reviewing all administrative appeals of disciplinary charges filed by Pittsburgh inmates, He is being sued in his individual and official capacities.
10. Defendant Charles Shane, he is one of three board members at SCI Pittsburgh, he also is responsible for reviewing all administrative appeals of disciplinary charges filed by Pittsburgh inmates, He is being sued in his individual and official capacities.
10. Defendant Kerri Cross, is a hearing examiner at Pittsburgh, She's responsible for conducting disciplinary hearings for prisoners accused of breaking the rules, She is being sued in her individual and official capacities.
11. Defendant Mr Simpson, is correctional captain at SCI Pittsburgh, where the events describe took place; He is also in charge of the segregation unit at Pittsburgh, He is also one of three appeal board members responsible for reviewing all administrative appeals of disciplinary charges filled by Pittsburgh inmates, He is being sued in his individual and official capacities

12. Defendant Mr Gaston, is a correction officer at SCI Pittsburgh, one of his jobs is to investigate rule violation by Pittsburgh inmates, and conducting write-ups for the violations, He is being sued in his individual capacities.

D) FACTS. DENIAL OF DUE PROCESS:

13. On May 27, 2004 at 0700 hours the plaintiff was removed from his cell in general population at SCI Pittsburgh, for allegedly hitting his cellmate Mr Taylor, 15 minute latter plaintiff was interviewed by Lieutenant Culp, after the interview plaintiff was placed into administrative custody by order of Captain Simpson.

14. The plaintiff was placed into a cell on the punitive segregation unit, into a cell with another inmate serving a punitive segregation sentence.

15. On May 31, 2004 While in administrative segregation the plaintiff received a misconduct report stating that two CSI's were in a location to observe Plaintiff and Taylor arguing about Taylor making noise in the early morning hours, and arguing about plaintiff not using his head-phones, and they also heard the plaintiff threatening Taylor, Taylor also confirm that he was hit.

16. At that point the plaintiff received a form to fill out, to write down his version of the events and any witness that he wish to call, plaintiff put down witness inmate Chandler as a witness.

17. On June 30, 2004 The plaintiff received a disciplinary hearing in front of defendant Hearing Examiner, Cross, at that point" the plaintiff handed the defendant Cross his witness list and statement of events.

18. Defendant Cross denied plaintiff witness, then after, she read the plaintiff misconduct report, at that point she desided to postpone the hearing to allow an in-camera reliability hearing with C/O Gaston to establish the credibility of the two CSI's.

19. On June 7, 2004 the disciplinary hearing reconvin~~e~~, the hearing examinar,"Ms Cross, stated to the plaintiff that she had resently got off the phone befor the plaintiff came to the hearing, and it was in regard to the in camera hearing, and the information that she received is a such: That the in camera hearing was held on June 4, 2004, and that C/O Gaston gave sworn testimony that his two CSI's were in a position to observe as to hear violation, and they reported hearing the plaintiff and Taylor arusing over cell move, and that they heard a distint sound of someone getting hit, then after the hit they hard the plaintiff say,"Why don't you hit me back" and Taylor conferm that he was hit.

20. At that point the hearing examinar ask the plaintiff how do he plead to the charge's?

21. The plaintiff informed the hearing examiner, defendant Cross" that do to new allagation that were just made in regard to what the two CSI's claim they heard, that just at that moment come to his attention, that he needed to postpone this hearing to marshal a new defence.

21. The request was denied by the defendant, Cross", and the plaintiff was found guilty, and was giving 60 days punitive segregation.

22. At that point the defendant handed the plaintiff handed his written statements of the facts detailing the evidence relied upon.

23. Pursuant to procedure on June 7, 2004 the plaintiff filed a administrative appeal with board members , Simpson, Mc Coy, and Shane defendants" pointing out spicfic violation.

24. On 6/9/2004 the plaintiff appeal was denied.

25. On 6/8/04 the plaintiff requested written statements, Taylor complaintiff" version of events for plaintiff defence, the request was made to Captain Simpson, They where also denied.

E) Clames of relief:

26. Defendant Mr Simpson, Mr McCoy, and Shane, in refusing to over turn plaintiff disiplinary conviction dispite there knowledge of the describe Due Process violation, and failing to correct them. The violation was then obvious in the record, denied the plaintiff of Due Process of law in violation of the fourteenth amendment of the United States Constitution,
27. Defendant Captain Simpson, for procedure violation, for authorizing the administrative custody of the plaintiff under punitive condiction by placing him into a cell with another inmate serving a punitive sentence, constituted atypical hardship, dening the plaintiff of due process, For failure to act on the unconstitutional acts of his subernates and failure to be responsable for preventing it, constituted deliberat indeffrence further dening the plaintiff of due process of law in violation of the United States Constitution.
28. Defendant Ms Cross actions for refusing to call plaintiff witness after the reconstructed testimony by the C.S.I.s. By receiving this information by phone, and failing to review this material evidence (in-camera) documenting the investigagater assesment of the credibilty of the C.S.I.s. The evidence did not meet the propondence of the evidence rule, failure to give specific facts finding, detailing the evidence relied upon to support her verdict, and not just stating the inmate is guilty as written, denied the plaintiff of due process of law in violation of the fourteenth amendment of the United States Constitution.
29. Defendant Mr Gaston, action for his inderect participation of of the plaintiff due process right violation, by seting in motion a series of events that he know or reasonable should have cause a constitutional violation, also technical error in his report affected the plaintiff ability to understand and defend the charge's, denied the plaintiff due process of law in violation of the Fourteen Amendment of the United States Constitution

F) Wherefore:

Plaintiff request that the court grant the following relief,

A) Issue a declaratory judgement stating that,

1. Defendant, Simpson, McCoy and Shane action to not over tuun the plaintiff disaplinary conviction violated the plaintiff due process rights under the fourteenth amendment of the United States Constitution.
2. Defendant Simpson action for failing to act on the process violation complants and his suburnete unconstitutional b havor and procedure violations, denied the plaintiff due process of law under the Fourteenth Amendmend of the United States Constitution.
3. Defendant Cross in conducting the plaintiff disaplinary hearing violated the plaintiff due process rights under the fourteenth amendment of the United States Constitution .
4. Defendant Gaston action, by seting in motions a series of events that he would have reasonable should *out of bounds* would be in violation of the plaintiff due process right under the fourteenth amendment of the United State Constitution.

G) Issue a injunction ordering;

erase the plaintiff displainary conviction discribe in this complaint from his institutional record.

H) Award compensatory damages jointly and severly against defendant:

for the punishment and emotional injury resulting from there denial of due process in there connection with the plaintiff appeal and discplaniry hearing proceedings denied the plaintiff due process of law under the United States Constitution.

2. Defendant Simpson for punishment and emotional injury for failing to investagate and to take action resulting from the plaintiff com- plants and conserns and his subernate unconstitutional actions denying the plaintiff of due process of law unde the United States consti- tution.

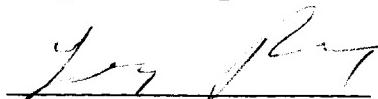
3. Defendant Gaston for punishment and emotional injury resulting from his indirect involvement in the events that resulted in the plaintiff due process violation, denied the plaintiff due process of law under the United States Counstitution.

I) Award Punitive damages against defendant, Simpson, McCoy, Cross, Shane, Gaston and

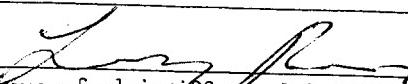
J) Grant such other relief as it may appear that plaintiff is entitle.

Date:

Respectfully Submitted



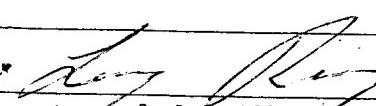
Signed this May day of 20, 192005.

  
(Signature of plaintiff or plaintiffs)

Executed at SCI Forest 1 Woodland Dr Marienville Pa.  
(Name of institution, city, county)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on                                   2005  
(Date)

  
(Signature of plaintiff or plaintiffs)

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4. Have you begun other law suits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment? \_\_\_\_\_
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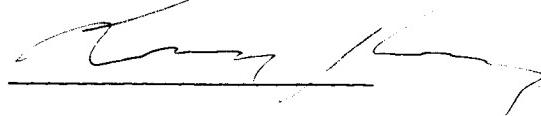
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I) Award Punitive damages against defendant, Simpson, McCoy, Cross, Shane, Gaston and

J) Grant such other relief as it may appear that plaintiff is entitle.

Date:

Respectfully Submitted



All Institutional Remedies

Grievance, Appeal Has Been  
Filed

ORIGINAL

CA 05-1725

See EXHIBITS  
These Page's

J. J.

Do. 11

11/29/05

AIA 1015  
⑨

DC-141 Part 3 Program Review Committee Action	<b>COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS</b>			Revised 6/02
<input type="checkbox"/> Misconduct Appeal	<input type="checkbox"/> Periodic Review	<input type="checkbox"/> Other		
DC Number FQ 8672	Name Leroy Riley	Facility SCI-P	Date of Review 6/9/04	No. from DC-141 Part 1 A 602109

## Program Review Committee's Decision and Rationale

## Points of Appeal

- A: Procedures: Inmate claims procedures not followed
- B: Punishment: Claims should not have been sanctioned.
- C: Evidence: Claims CST's were not reliable.

Decision of PRCC: Procedures were followed. H/E had second hearing to establish credibility of CST's. H/E found evidence more reliable than testimony of inmates. Sanctions imposed appropriate for offense. <sup>Poss 10<sup>n</sup></sup> <sup>Poss 10<sup>n</sup></sup>

Sustain

## Decision Relative to Hearing Examiner's Verdict

Not Applicable     Sustain     Sustain-Amend     Refer Back for Further Study     Exonerate Inmate

Names of Program Review Committee Members	Signatures	Date
David McCoy, Acting DATSS	<i>David McCoy</i>	6/9/04
Charles M. Shanes, Principal	<i>Charles M. Shanes</i>	6/9/04
Charles M. Shanes, Principal	<i>Charles M. Shanes</i>	6/9/04

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF CORRECTIONS

Office of the Chief Hearing Examiner  
1451 North Market Street  
Elizabethtown, PA 17022

INMATE NAME: [REDACTED] INN: [REDACTED]

INSTITUTION: [REDACTED] Misconduct Number: A602109

FROM: Robert S. Bitner  
Chief Hearing Examiner      DATE : September 14, 2004

This is to acknowledge receipt of your appeal to final review of the above numbered misconduct.

In accordance with DC ADM 801, VI L, 3b, inmates appeal for final review of their misconducts are responsible for providing the Chief Hearing Examiner with a brief statement relative to issues and any available paperwork or documentation relevant to the appeal. A proper appeal for final review should include photocopies of the Misconduct Report, Hearing Examiner's report, the Inmate Version and Witness forms (if applicable), Appeal to PRC, PRC Response, Appeal to Superintendent, and the Superintendent's response.

Your appeal to final review failed to include one or more of the documents necessary to complete final review. Accordingly, my office has contacted our institution to request copies of the entire record of this misconduct as well as appeals at the institution level.

This notice is to advise you that, although we have received your appeal, the response at final review will be delayed pending receipt of the records requested from the institution. Your appeal will be reviewed and responded to within seven working days of receipt of all necessary records for review pursuant to DC ADM 801, VI E.

**ADDITIONAL COMMENTS:**

**Sent for a copy of the Superintendent's appeal response.**

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF CORRECTIONS  
1451 N. MARKET STREET  
ELIZABETHTOWN, PA 17022

OFFICE OF THE  
CHIEF HEARING EXAMINER

September 20, 2004

Leroy Riley, FQ-8672  
SCI Pittsburgh

Re: DC-ADM 801 - Final Review  
Misconduct No. A602109

Dear Mr. Riley:

Your appeal of the above-referenced misconduct has been referred to this office for review. However, our inquiry into this matter reveals that you have not yet appealed to the Superintendent of your institution as required by DC-ADM 801. Until this appeal is completed, final review cannot be granted. Upon receiving the response from your appeal to the Superintendent, you may once again submit a timely written appeal for final review.

This response does not grant you a right to an appeal if it would otherwise be untimely to pursue that appeal. However, in evaluating the timeliness of any appeal you submit, the time consumed by erroneously directing your appeal to this office may be disregarded at the discretion of the recipient of your next appeal.

Sincerely,



Robert S. Bitner  
Chief Hearing Examiner

RSB:krc

pc: Superintendent Good

*"Our mission is to protect the public by confining persons committed to our custody in safe, secure facilities, and to provide opportunities for inmates to acquire the skills and values necessary to become productive law-abiding citizens; while respecting the rights of crime victims."*

Form DC-135A

Commonwealth of Pennsylvania  
Department of Corrections

## INMATE'S REQUEST TO STAFF MEMBER

*Superintendent*

## INSTRUCTIONS

Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)	2. Date:
3. By: (Print Inmate Name and Number)	4. Counselor's Name
<i>LEROY RILEY 508672</i>	<i>SORBRIN</i>
<i>LeRoy Riley</i>	5. Unit Manager's Name
Inmate Signature	<i>Holloc 10</i>
6. Work Assignment	7. Housing Assignment
<i>Block worker</i>	<i>B1605</i>
8. Subject: State your request completely but briefly. Give details.	

*Please Read what's inclosed*

RECEIVED
SCI-PITTSBURGH
JAN 05 2005
SUPERINTENDENT
ASSISTANT II

*ISSUE  
over turn  
DISAPPLYING  
Conviction*

## 9. Response: (This Section for Staff Response Only)

To DC-14 CAR only To DC-14 CAR and DC-15 IRS 

Staff Member Name \_\_\_\_\_ / \_\_\_\_\_ Date \_\_\_\_\_  
 Print \_\_\_\_\_ Sign \_\_\_\_\_

Leror Riley FQ 8672

Superintendent Officie  
SCI Pittsburgh  
P.O. Box 99901  
Pittsburgh, Pa. 15233

Date 12/5/04

Dear Sir,

Good day, On are about ~~9/16/04~~, I filed for a review of my misconduct I received on 7/28/2004 they had informed me that it had to go through the Superintendent office first. On are around ~~8/16/04~~ ~~7/27/04~~ I sent this information to you along with my complaint and documents pertaining to the misconduct them. I did not receive a responce back from your office. Again on are around ~~10/16/04~~ I informed you that I did not received a responce from your office I'm still waiting to hear from you. I will wait a just a few more days for your responce to this request, if I do not here back from you, I will have no choice but to send it back off to the Chief hearing examiner with out your responce.

Issue:

I was wrongly accuse of hitting inmate Mr Taylor. The evidence against me was fabracated, I got a misconduct back saying two CSIs were in a location to observe the violation. I know in my soul this is not true, for 1, I did not strike Mr taylor. 2, This took place at 6:am the jail was lock down at that time, no one was out as to see or hear. 3. You can not hear some one getting strike in there side or mid siction through thouse thick cell walls 'try it you'll see" If there were two CSIs they would of have to had been next door as to hear, but it's still imposable. 5 The misconduct report don't match the (~~the two CSIs change there statements~~) one from the misconduct hearing (In-camera report) 6. The hearing examiner never reviewed the in-camera report, she took this information over the phone information like where were the CSI located at the time

as to hear the violation? What cell were they in if they were next door sence the jail was lock down. What reliable information that they given in the past? the rule of procedure said this must be done she did not do it, also , on the hearing examiner's statement of reason she must give reson why she came to the conclusion, and not just repeat, what it said in the report,"Guilty as writen" The evidence did not meet the proponderence of the evidence rule. Theres no evidence any one was hit and nobody seen it nor heard. also procedure violation, I was placed into a cell while I was on administrative status on a punitive segeration block with another (same cell) inmate seriving a punitive sentence for over 10 days. All Im am asking is for some one to review the in-camera report and you will see somebody is lying and fabracating a story and to review the misconduct report against the in-camera hearing report and you will see the same.

All I'm am asking for is a fare shake and a carefull review of these allagations, I have to clear my name because this misconduct may hurt any future plains or indevers.

Think you very much  
for your time.



**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF CORRECTIONS  
SCI-PITTSBURGH  
(412) 761-1955  
January 5, 2005**

Subject: Misconduct Appeal

To: Leroy Riley, FQ-8672

From: Thomas W. Seiverling  
Superintendent Assistant

This is in response to your communication to Supt. Stowitzky. I have reviewed both your institutional record and the files in the superintendent's office and I can find no indication that any appeal of misconduct #A602109 was ever received by the superintendent. As of this date, the time period for appealing this issue has long since expired.

TWS

cc: DC-15

OCT 01 2004

Form DC-135A

Commonwealth of Pennsylvania  
Department of Corrections Office

## INMATE'S REQUEST TO STAFF MEMBER

*Mr Good*

## INSTRUCTIONS

Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)

2. Date:

*8/28/04*

3. By: (Print Inmate Name and Number)

4. Counselor's Name

*LEROY RILEY Q8670**Mr Smith*Inmate Signature  
*LEROY RILEY*

5. Unit Manager's Name

*Mr Hobbs*

6. Work Assignment

7. Housing Assignment

*B2 31016*

8. Subject: State your request completely but briefly. Give details.

*Please provide me with**the name of*

9. Response: (This Section for Staff Response Only)

To DC-14 CAR only To DC-14 CAR and DC-15 IRS Staff Member Name \_\_\_\_\_ / \_\_\_\_\_ Date \_\_\_\_\_  
Print \_\_\_\_\_ Sign \_\_\_\_\_